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| APPLICATION NO. | FILING DATE | FIRST NAMED INVENTOR | ATTORNEY DOCKET NO. | CONFIRMATION NO. |
|-----------------|-------------|----------------------|---------------------|------------------|
|-----------------|-------------|----------------------|---------------------|------------------|

10/597,000

06/12/2008

Deyang Hou

4587

45462 7590 05/31/2011

QUANTLOGIC CORPORATION
5111 AVONDALE DRIVE
SUGARLAND, TX 77479

EXAMINER

JONAITIS, JUSTIN M

ART UNIT

PAPER NUMBER

3752

MAIL DATE

DELIVERY MODE

05/31/2011

PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

| | | | |
|--|--------------------------------------|------------------------------------|--|
| <p align="center">Advisory Action Before the Filing of an Appeal Brief</p> | Application No. 10/597,000 | Applicant(s) HOU, DEYANG | |
| | Examiner JUSTIN JONAITIS | Art Unit 3752 | |

--The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

THE REPLY FILED 22 May 2011 FAILS TO PLACE THIS APPLICATION IN CONDITION FOR ALLOWANCE.

1. ☒ The reply was filed after a final rejection, but prior to or on the same day as filing a Notice of Appeal. To avoid abandonment of this application, applicant must timely file one of the following replies: (1) an amendment, affidavit, or other evidence, which places the application in condition for allowance; (2) a Notice of Appeal (with appeal fee) in compliance with 37 CFR 41.31; or (3) a Request for Continued Examination (RCE) in compliance with 37 CFR 1.114. The reply must be filed within one of the following time periods:

- a) ☒ The period for reply expires 6 months from the mailing date of the final rejection.
 b) ☐ The period for reply expires on: (1) the mailing date of this Advisory Action, or (2) the date set forth in the final rejection, whichever is later. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of the final rejection.

Examiner Note: If box 1 is checked, check either box (a) or (b). ONLY CHECK BOX (b) WHEN THE FIRST REPLY WAS FILED WITHIN TWO MONTHS OF THE FINAL REJECTION. See MPEP 706.07(f).

Extensions of time may be obtained under 37 CFR 1.136(a). The date on which the petition under 37 CFR 1.136(a) and the appropriate extension fee have been filed is the date for purposes of determining the period of extension and the corresponding amount of the fee. The appropriate extension fee under 37 CFR 1.17(a) is calculated from: (1) the expiration date of the shortened statutory period for reply originally set in the final Office action; or (2) as set forth in (b) above, if checked. Any reply received by the Office later than three months after the mailing date of the final rejection, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

NOTICE OF APPEAL

2. ☒ The Notice of Appeal was filed on 21 May 2011. A brief in compliance with 37 CFR 41.37 must be filed within two months of the date of filing the Notice of Appeal (37 CFR 41.37(a)), or any extension thereof (37 CFR 41.37(e)), to avoid dismissal of the appeal. Since a Notice of Appeal has been filed, any reply must be filed within the time period set forth in 37 CFR 41.37(a).

AMENDMENTS

3. ☒ The proposed amendment(s) filed after a final rejection, but prior to the date of filing a brief, will not be entered because
 (a) ☐ They raise new issues that would require further consideration and/or search (see NOTE below);
 (b) ☐ They raise the issue of new matter (see NOTE below);
 (c) ☒ They are not deemed to place the application in better form for appeal by materially reducing or simplifying the issues for appeal; and/or
 (d) ☐ They present additional claims without canceling a corresponding number of finally rejected claims.

NOTE: _____. (See 37 CFR 1.116 and 41.33(a)).

4. ☐ The amendments are not in compliance with 37 CFR 1.121. See attached Notice of Non-Compliant Amendment (PTOL-324).

5. ☒ Applicant's reply has overcome the following rejection(s): 112 1st rejections.

6. ☐ Newly proposed or amended claim(s) _____ would be allowable if submitted in a separate, timely filed amendment canceling the non-allowable claim(s).

7. ☒ For purposes of appeal, the proposed amendment(s): a) ☒ will not be entered, or b) ☐ will be entered and an explanation of how the new or amended claims would be rejected is provided below or appended.

The status of the claim(s) is (or will be) as follows:

Claim(s) allowed: _____.

Claim(s) objected to: _____.

Claim(s) rejected: 1-22.

Claim(s) withdrawn from consideration: _____.

AFFIDAVIT OR OTHER EVIDENCE

8. ☐ The affidavit or other evidence filed after a final action, but before or on the date of filing a Notice of Appeal will not be entered because applicant failed to provide a showing of good and sufficient reasons why the affidavit or other evidence is necessary and was not earlier presented. See 37 CFR 1.116(e).

9. ☐ The affidavit or other evidence filed after the date of filing a Notice of Appeal, but prior to the date of filing a brief, will not be entered because the affidavit or other evidence failed to overcome all rejections under appeal and/or appellant fails to provide a showing of a good and sufficient reasons why it is necessary and was not earlier presented. See 37 CFR 41.33(d)(1).

10. ☐ The affidavit or other evidence is entered. An explanation of the status of the claims after entry is below or attached.

REQUEST FOR RECONSIDERATION/OTHER

11. ☒ The request for reconsideration has been considered but does NOT place the application in condition for allowance because:
See Continuation Sheet.

12. ☐ Note the attached Information *Disclosure Statement*(s). (PTO/SB/08) Paper No(s). _____

13. ☐ Other: _____.

/Len Tran/
Supervisory Patent Examiner, Art Unit 3752

/JUSTIN JONAITIS/
Examiner, Art Unit 3752

Continuation of 11. does NOT place the application in condition for allowance because: While examiner agrees that there was agreement to what exactly applicant is trying to gain protection in during the interviews, the claims have not been amended in such a way to clearly distinguish over the prior art. Specifically many of the 112 second rejections have not been addressed, Neither have any of the claim objections for improper multiple dependent claims. Specifically in regard to the 102 rejections, applicant argues that Gate did not give any designs applicant states the Gate reference (examiner assumes applicant means the Date Reference) did not give any other designs such as multijet orifice ON the conical surface, and did not give a flow guide conical surface, and did not give a simple smooth needle head curvature design as claimed. However, There is no claims directed towards the smooth needle head curvature applicant is arguing. While such limitations can be seen in the drawings and were discussed in the interviews, the limitations cannot be read into the limitations disclosed by the claims. In regard to the multijet orifice being ON the conical surface, applicants own invention does not depict the apparatus functioning in this manner. The multijet orifices are located on A conical surface located on the exterior of the apparatus in the same manner as the orifices of the Date reference (See Figure 1). In regard to the flow guide conical surface, applicant has not clearly defined this limitation in the claims and simply states, "a conical surface close to the tip" there is no disclosure of it being a flow guide. Further the limitations applicant appears to impose on the conical surface throughout the claims (as noted by the 112 second rejections) is not consistent. Currently only one embodiment is disclosed by the figures and specification and based on the claimed limitations the component being called the "conical surface" is not consistent. In regard to the 102 rejection to Simmons, Applicant argues that the Simmons invention is completely different than the instant application. However, the Simmons reference meets all the claimed limitations. Therefore the claim as it stands does not differentiate over the Simmons reference regardless of the fuel injector being different than the fuel injector of the instant application. In regard to the 103 rejection, applicant argues that the instant application produces different spray patterns in a different sequence than the Date invention, and therefore the instant application bears significant advantage and it would not be a matter of obviousness to change the spray pattern varying sequence. However this is not the rejection made by the 103 rejections. The 103 rejections are in regard to changing the dimensions of components and the shape of the components to achieve a desired spray pattern. There is no suggestion by examiner to vary the spray pattern sequence and only the suggestion to vary the shape and dimensions in order to achieve a desirable spray pattern, both of which are well known methods of changing the spray pattern of a fuel injector and well within the level of ordinary skill in the art. Therefore the rejections as disclosed in the Final Rejection dated 5/21/2011 are maintained.